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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/348,954 07/07/99 GENT

J C-309

EXAMINER

QM12/0402
C/O BRISTOL MYERS SQUIBB COMPANY
100 HEADQUARTERS PARK DRIVE
SKILLMAN NJ 08558

WEDB, J ART UNIT	PAPER NUMBER
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3761
DATE MAILED:

4

04/02/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.

09/348,954

Applicant(s)

GENT ET AL.

Examiner

Jamisia A. Webb

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-26 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claims ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☒ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- 15) ☒ Notice of References Cited (PTO-892)
- 16) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 17) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____.
- 18) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 19) ☐ Notice of Informal Patent Application (PTO-152)
- 20) ☐ Other: _____.

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DETAILED ACTION

Priority

1. Acknowledgment is made of applicant's claim for foreign priority based on an application filed in United Kingdom on 07/07/98. It is noted, however, that applicant has not filed a certified copy of the foreign application as required by 35 U.S.C. 119(b).

Specification

2. The disclosure is objected to because of the following informalities: A written description of reference number 22 in Figure 1 is missing.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1-17, and 22-26 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

5. Claim 1 recites the limitation "the body" in line 1. There is insufficient antecedent basis for this limitation in the claim.

6. Claim 2 recites the limitation "the surface" in line 2. There is insufficient antecedent basis for this limitation in the claim.

7. With respect to Claim 10: the phrase "wherein "/" denotes separate layers of the composite" is unclear. In the claim it states "a composite comprising one or more of the following", and if option "(iv)" is chosen, then there is not a "/" in the claim. Furthermore, it is

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unclear how the composites are layered, for example “(i)” does this mean that there is a layer of tissue layer, then a second layer that consist of sodium polyacrylate, glycerol and water, and then a third layer of tissue paper?. If this is so, then the examiner suggests incorporating the wording just given in the example, into the claim for (i), (ii), (iii), and (iv).

8. With respect to claims 19 and 21: the phrase “is effective” should have a corresponding result in what the object is effective for. For example “the generator is effective in reducing the odor, as smelled by the user, of excreted bodily fluids”.

9. With respect to Claim 22: the phrase “the method comprising attaching directly or indirectly to plastics” is indefinite. It is unclear as to what is being attached directly or indirectly to plastics.

Claim Rejections - 35 USC § 102

11. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

12. Claims 1, 4-6, and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by Dierckes, Jr. et al. (5,868,724).

13. Dierckes discloses a pouch, outer cover of a diaper (40), comprising a carrier, topsheet and the absorbent core (38, 42), where the absorbent core is the matrix can include a layer of

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non-absorbent gelling material, which can provide odor control (column 9, lines 13-19), the topsheet and the backsheet are joined together (column 39, lines 25-39), and the matrix comprises a plasticizer made from glycerol and water, and can be combined with polyethylene glycol (column 19, lines 61-67).

14. Claims 1, 4, 5, 8, 9, and 16 rejected under 35 U.S.C. 102(e) as being anticipated by Caldwell et al. (6,083,602).

15. Caldwell discloses breathable briefs with an outer shell (15), a carrier, which includes a shedding shield and an absorbent pad (20, 25), in which can be fastened on one or both ends to form a pocket or a flap, in which the pad can also be treated with disinfectants and anti-odor agents (column 52, lines 1-27). Caldwell also discloses a wide variety of additives to produce porous webs, such as stearic acid salts (column 37, line 57). The definition of a soap, is a metallic salt of a fatty acid, as of aluminum or iron, Caldwell discloses stearic acid (which is a fatty acid) salts, therefore the examiner considers Caldwell to discloses the use of soaps in an absorbent matrix.

16. Claims 1, 2, 4, 5, 7, 9, and 10 rejected under 35 U.S.C. 102(e) as being anticipated by Gross (6,031,147).

17. With respect to Claims 1, 4, 5, 7, and 9: Gross discloses an absorbent structure with a pouch, outer cover (26), carrier means, topsheet and absorbent core (24,22), comprising an absorbent matrix (22), comprising a surfactant, being affective to reduce the odor of urine (column 2, lines 48-49), in which the topsheet is attached to the backsheet (column 3, lines 3-4).

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18. With respect to Claim 2: Gross discloses the surfactant coating the absorbent matrix (column 5, lines 21-29).

19. With respect to Claim 10: Gross discloses the absorbent matrix being made from superabsorbent materials, such as hydrogel polymers made from mixtures of polymers, one being polyvinyl alcohol (column 4, lines 5-15), and can be made in any geometrical shape, including fibers (column 4, lines 17-18).

20. Claims 1, 3, 16, and 22 rejected under 35 U.S.C. 102(e) as being anticipated by Hasse (5,769,832).

21. Hasse discloses a pouch ,diaper (20), comprising a carrier, adhesive tabs (40), that carries fragrance microcapsules (70), that are embedded in the adhesive securement means (column 7, lines 52-53), therefor the capsules are adhered to the carrier, and where the carrier, fastener tabs, are attached to the outer surface of the pouch, diaper, (column 10, lines 32-36).

22. Claims 1, 4, 5, 11, 12, 14, 15 and 18-26 are rejected under 35 U.S.C. 102(b) as being anticipated by Andersson et al. (4,363,322).

23. With respect to Claims 1, 4, 5, 18, 19, 21, and 22: Andersson discloses a liquid absorbing product such as a sanitary napkin, comprising a pouch, outer cover (3), a carrier (1,4,5,6), containing deodorizing strips (1) located in an absorbent matrix (6), (see abstract). Anderson also discloses an anti-slip layer or strip can be fastened to both the outer cover, as well as an inner surface of the absorbent pad, (column 7, lines 54-58).

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24. With respect to Claims 11, 12, 14, 15, 18, 20, and 23-26: Andersson discloses the use of compounds that give off oxygen in moisture, with a list of peroxides, and oxides, with a preferred peroxide being sodium perborate, which is incorporated into the absorbent product as a powder or impregnation of the absorbent core. (column 5, lines 16-32).

25. Claims 1, 4, 5, and 16-17 rejected under 35 U.S.C. 102(b) as being anticipated by Difilippantonio et al. (5,582,603).

26. Difilippantonio discloses an absorbent product with a pouch, body fluid impermeable barrier, that may be heat sealed to the central absorbent core (column 3, lines 44-46), and in which a top layer includes a powdered deodorant ingredient including fragrances, to provide active odor control (column 5, lines 6-16).

Claim Rejections - 35 USC § 103

27. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

28. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out

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the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

29. Claim is 13 rejected under 35 U.S.C. 103(a) as being unpatentable over Andersson (4,363,322) in view of Gancet et al. (5,885,263).

30. Andersson, as disclosed above for claim 1, teaches the use of oxidants, comprising metals that catalyze the decomposition, such as sodium chlorate, but does not specifically teach the use of the malodor counteractant comprising a chlorine dioxide generator.

31. Gancet discloses the use of oxidants such as hydrogen peroxide and chlorine dioxide. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have the oxidant of Andersson, be chlorine dioxide, as disclosed by Gancet, in order to suppress the smell of bodily fluids. (See Gancet column 1). Furthermore, a hydrogen peroxide and a chlorine dioxide (as disclosed by Gancet), are both oxidizers, and therefore perform the same function, and therefore are interchangeable.

Conclusion

32. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Yamauchi (3,856,014) discloses a sanitary napkin with powdered deodorant adhered to the staple fibers of an absorbent core, and Guarracino et al. (5,944,704) discloses an odor control material, being interspersed in an absorbent matrix.


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33. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jamisue A. Webb whose telephone number is (703) 308-8579.

The examiner can normally be reached on M-F (8:30 - 5:00).

The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-3590 for regular communications and (703) 306-4520 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.


jaw
March 28, 2001


DENNIS RUHL
PRIMARY EXAMINER